

The Physician and Workmen's Compensation

A New Paramedic to Help with Compensation Cases

WILLIAM B. WHITING, MD and ROBERT D. BEYER, MPA, San Francisco

The first social, no-fault, insurance legislation in California was the Workmen's Compensation Act of 1911. It has been changed and modified in the years since, and is having an increasing impact on the practice of most California physicians. Many physicians consider caring for the occupationally ill or injured time-consuming and difficult. A newly emerging kind of paramedic, the workmen's compensation benefit administrator, is available to assist the physician in overcoming difficulties encountered. A cooperative effort between the physician and the benefit administrator will expedite management of industrial patients.

THE INDUSTRIAL REVOLUTION caused dramatic changes in western life-styles. In addition to creating new kinds of employment, it led to a group of physically injured and disabled through industrial injuries and occupational illnesses. This effect was cause for great social concern and led, eventually, to the creation of workmen's compensation laws.

In 1911 New Jersey was the first state to successfully pass a compulsory workmen's compen-

sation law. That same year nine other states, including California, passed such laws.¹ The last state to enact such legislation was Mississippi, in 1948.² Currently, a commission appointed by President Nixon is making a study of workmen's compensation as it now exists in the various states.³

The Compensation Law in California

The California Workmen's Compensation Act of 1911 has been added to and modified at many subsequent sessions of the legislature. It has maintained, through the years, two basic concepts: Legislative involvement in the delivery of medical

From the California State Compensation Insurance Fund, 525 Golden Gate Ave., San Francisco.

Submitted February 24, 1972.

Reprint requests to: W. B. Whiting, MD, Medical Officer, California State Compensation Insurance Fund, 525 Golden Gate Ave., San Francisco, Ca. 94101.

care by the private sector; and benefit provision, medical and social, at the employer's expense, irrespective of fault (no-fault). Provisions of the law include:

1. "... a liability on the part of all employers to compensate their employees for any injury incurred by the said employees in the course of their employment, irrespective of the fault of either party."⁴

2. "... adequate provisions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support . . ."⁵

3. "... full provision for . . . medical, surgical, hospital, and other remedial treatment . . ."⁵

These points have been interpreted by the courts and the Workmen's Compensation Appeals Board (WCAB) in the following manner:

1. A man's occupational illness or injury must be determined a result of his employment. ("The provisions . . . shall be liberally construed by the courts with the purpose of extending their benefits for the protection of persons injured in the course of their employment.")⁶

2. The employee or his dependents are entitled to temporary and permanent income benefits, as indicated.

3. Total medical benefits for the occupational illness or injury are to be provided without time limitations.

4. Life pensions must be provided to the occupationally ill or injured, if indicated.

5. All of the above benefits are to be provided by the employer and considered a portion of his overhead.

6. Consistent with the no-fault clause in the legislation, the employee is constrained from filing a negligence suit against his employer.

7. These benefits are not provided from tax revenues.

Physicians and Compensation Medicine

The California Labor Code, Section 3209.3, defines physicians as follows: "Physician includes physicians and surgeons, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners licensed by California State law, and within the scope of their practice as defined by California State law."

Most physicians and surgeons serve populations in which there are persons subject to occupational illnesses and injuries. It is, therefore, inevitable that most practicing California physicians will

become involved with the workmen's compensation claim for benefits, some of them as employers.

It is common for the treating physician to consider compensation cases difficult because they involve third parties (the employer or his representatives and members of the legal profession). Much of the difficulty in these cases can be averted through a cooperative relationship between the compensation insurance benefit administrator and the treating physician.

A New Paramedic

Compensation insurance benefit administrators are emerging as paramedics specializing in managing the third party relationships encountered in occupational illnesses and injuries. They are salaried employees of the State Compensation Insurance Fund. As the physician's assistant, the benefit administrator's primary responsibilities involve the social management of compensation claims. He will assist the physician in dealing with: (1) Employer involvement; (2) family relationships; (3) medico-legal problems; and (4) rehabilitation and return to work. The benefit administrator will aid the physician in the care of the patient as a whole. It is his responsibility to monitor the medical care delivered to the patient for its adequacy and to assure its quality. He also expedites medico-legal procedures associated with compensation claims.

Medical Reports and Compensation Claims

All medical reports on compensation claims are subject to legal interpretation. This medico-legal interface is a continuing source of problems in determining compensation benefits. Phrases that are perfectly clear, medically, may be given a completely different interpretation by the legal community. It therefore becomes imperative that the treating physicians acquire some proficiency in the techniques of compensation reporting. This is necessary if the patient is to obtain all of the benefits to which he is legally entitled.

REFERENCES

1. Berkowitz M: Workmen's Compensation. New Brunswick NJ, Rutgers University Press, 1960, p 3
2. Personal communication with Malcolm R. Peattie, Deputy Director, California Department of Industrial Relations
3. This Commission to study States' Workmen's Compensation Laws was established by the Williams-Steiger Occupational Safety and Health Act of 1970
4. California Constitution, Article XX, Sec 21, adopted Oct 10, 1911
5. California Constitution, Article XX, Sec 21, adopted Nov 5, 1918
6. California Labor Code Section 3202 [69 (a)]